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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PATEL, ASHOK

ART UNIT PAPER NUMBER

2879

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 2879

1. Applicant's election with traverse of Group I, claim 67, in the reply filed on 08/29/2006, is acknowledged. The traversal is on the ground(s) that:

(1) there is absolutely no indication that Groups I, II and III are independent (page 3 of applicant's response). This is not found persuasive because the claims are divided into three distinct groups, as shown in the very last restriction requirement. For example, the electron emissive material of group II (or the field emission device of group III) does not require the solid substance (of Group I) having more than one half by weight of hollow carbon nanotubes of claim 67 of group I. The subcombination has separate utility such, conductive stock material, paste, switch etc.

(2) the prior art search requiring search in more than one classification is sufficient criteria for maintaining a restriction to allegedly different patentable inventions is in error (page 4 of the response). This is not always persuasive since different prior art search is not the sole factor for the restriction requirement. Showing of distinctness of three groups from each other in this case is also another criteria for restriction requirement.

The requirement is still deemed proper and is therefore made FINAL. Claims 70,73-84 and 97-104 are withdrawn from

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consideration. An action on merits including elected claim 67 is as follows.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 67 is rejected under 35 U.S.C. 102(e) as being anticipated by Smalley et al (USPN 6,692,717).

Smalley et al disclose applicant's claimed solid substance (yield or a sold mass) including hollow carbon nanotubes having two (double) layers of carbon atoms (col. 4, second paragraph; col. 5, lines 36-53 etc.).

As to the limitation by more than half by weight" the Examiner interprets this limitation as "anywhere up to 100 percentage of weight" in a broadest reasonable manner.

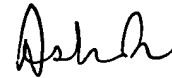
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok

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Patel whose telephone number is 571-272-2456. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 571-272-2457. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ashok Patel
Primary Examiner
Art Unit 2879